

UNITED STATES BANKRUPTCY COURT  
DISTRICT OF NEW JERSEY

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Representative of the Estate  
Of Gustavo Arnal*

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In re:	:	
BED BATH & BEYOND INC., et al., <sup>1</sup>	:	Chapter 11
	:	
Debtors.	:	Case No. 23-13359 (VFP)
-----X	:	
		(Jointly Administered)

**APPLICATION IN LIEU OF MOTION IN SUPPORT OF  
ENTRY OF STIPULATION AND CONSENT ORDER PERMITTING  
THE ADVANCEMENT OF DEFENSE COSTS UNDER THE DEBTORS'  
DIRECTORS AND OFFICERS LIABILITY INSURANCE POLICIES**

TO: THE HONORABLE VINCENT F. PAPALIA  
United States Bankruptcy Judge

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<sup>1</sup> The last four digits of Debtor Bed Bath & Beyond Inc.'s tax identification number are 0488. A complete list of the Debtors in these chapter 11 cases and each such Debtor's tax identification number may be obtained on the website of the Debtor's proposed claims and noticing agent at <https://restructuring.ra.kroll.com/bbby>.

Alexandra Cadenas, solely in her capacity as the Personal Representative of the Estate of Gustavo Arnal (the “Arnal Estate”), by and through the undersigned counsel, respectfully state the following in support of this application.(“Application”), pursuant to D.N.J. LBR 9021-1(b), seeking the approval and entry of the proposed Stipulation and Consent Order Permitting The Advancement Of Defense Costs Under The Debtors’ Directors And Officers Liability Insurance Policies (the “Proposed Stipulation”), a copy of which is attached hereto as Exhibit 1, and respectfully states as follows:

1. The Debtors filed voluntary petitions for relief under chapter 11 of title 11 of the United States Code (the “Bankruptcy Code”) on April 23, 2023, in the United States Bankruptcy Court in the District of New Jersey (this “Court”).

2. The Debtors continued to operate their businesses as debtors-in-possession pursuant to sections 1107(a) and 1108 of the Bankruptcy Code.

3. On July 20 and 21, 2023, the Debtors filed their Joint Plan of Reorganization (as subsequently amended, the “Plan”)<sup>2</sup> and the Disclosure Statement related thereto.

4. On September 14, 2023, the Court entered an order approving the Disclosure Statement on a final basis and confirming the Plan, and on September 29, 2023, the Effective Date of the Plan occurred and the Plan was consummated.

5. Pursuant to the Plan, on the Effective Date, the Plan Administrator became the sole representative of the Wind-Down Debtors.

6. Gustavo Arnal served as an officer of BBBY from May 5, 2020 to September 2, 2022.

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<sup>2</sup> Capitalized terms not otherwise defined herein or in the D&O Policy shall have the meanings ascribed to them in the Plan.

7. Side A of the D&O Policies, including the policy (the “D&O Policy”) issued by the current paying insurer, Berkshire Hathaway Specialty Insurance (“Berkshire”), allows the Insurers, including Berkshire, to advance Defense Costs and other Loss, subject to the terms and conditions of the D&O Policy, on behalf of the Insureds, as defined in said policy, including Arnal, incurred in connection with certain matters noticed in accordance with the D&O Policy.

8. As set forth in its Article V.D., the Plan provides that after the Effective Date, the Plan Administrator shall not terminate or otherwise reduce the coverage under any D&O Liability Insurance Policies, including the D&O Policy, in effect on the Effective Date, with respect to conduct occurring prior thereto, and all officers, directors, trustee, managers, and members of the Debtors who served in such capacity at any time before the Effective Date shall be entitled in accordance with, and subject in all respects to, the terms and conditions of any applicable D&O Liability Insurance Policy, which shall not be altered, to the full benefits of any such D&O Liability Insurance Policy for the full term of such D&O Liability Insurance Policy regardless of whether such officers, directors, trustees, managers, or members remain in such position after the Effective Date.

9. The New York State Department of Taxation and Finance has commenced a sales and use tax audit of the above listed entities and has proposed assessments against the entities and, among others, the Estate based on the claim that Arnal was a “Officer/Responsible Person” for such entities for purposes of imposing individual tax liabilities under New York sales tax law.

10. Berkshire has agreed to advance the Defense Costs to and on behalf of the Estate under the D&O Policy pursuant to the D&O Policy’s terms, subject to its reservation of rights and upon entry of an order of the Bankruptcy Court permitting such advancements;

11. Although the Estate believes such an order is unnecessary in light of Article V.D of the Plan, it has agreed to seek entry of the Proposed Stipulation.

12. The Proposed Stipulation shall be without prejudice to any further requests from the Insureds to advance costs and expenses from the D&O Policy or any other D&O Liability Insurance Policy in connection with any other actions or claims covered by such policies.

WHEREFORE, the Estate respectfully requests that the Court enter the Proposed Stipulation, in substantially the forms submitted herewith, granting the relief requested herein and such other relief as is just and proper under the circumstances.

Dated: July 10, 2025

HODGSON RUSS LLP

By: /s/ Neil B. Friedman  
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